

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 23 of the Code of Virginia when promulgating regulations pertaining to the administration of medication or other substances foreign to the natural horse.

Title of Regulation: **11VAC10-180. Medication (amending 11VAC10-180-10, 11VAC10-180-25, 11VAC10-180-35, 11VAC10-180-70 through 11VAC10-180-90, 11VAC10-180-110).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: May 1, 2015.

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Summary:

The amendments (i) change the Lasix administration time for race meets where a horse is shipped in to race as opposed to being stabled on the grounds of a racetrack and (ii) provide for the retainage of split samples by the official testing laboratory.

11VAC10-180-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Bleeder" means a horse that has been diagnosed as suffering from exercise-induced pulmonary hemorrhage based on external or endoscopic examination by ~~the~~ a commission veterinarian or a practicing veterinarian who is a permit holder in the Commonwealth of Virginia or any other jurisdiction.

"Bleeder list" means a tabulation of all bleeders to be maintained by the stewards.

"Commission" means the Virginia Racing Commission.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) or any substance included in the five classification schedules of the ~~U.S.~~ federal Uniform Controlled Substances Act (21 USC § 301 et seq.).

"Furosemide list" means a tabulation of horses permitted to use the medication of furosemide on race day by declaration to the stewards, in addition to horses on the bleeder list.

"Injectable substance" means a liquid or solid substance that may require the addition of a liquid via a needle and syringe to change it from a solid into a liquid, contained in a vial that can be accessed and administered only via a needle and syringe.

"Licensed veterinarian" means a veterinarian who holds a valid license to practice veterinary medicine and surgery under the applicable laws of the jurisdiction in which such person's practice is principally conducted.

"Milkshaking" or "bicarbonate loading" means administering a bicarbonate or other alkalinizing substance to a horse that elevates the horse's total carbon dioxide level or pH level

above those existing naturally in the untreated horse at normal physiological concentrations as determined by the commission, regardless of the means of administration.

"Permitted race day substances" means only substances approved by the commission that are administered solely for the benefit and welfare of the horse, nonperformance altering, of no danger to riders/drivers, and unlikely to interfere with the detection of prohibited substances.

"Prescription substance" means any substance that is administered or dispensed or labeled for use by or on the order of a licensed veterinarian for the purpose of medical treatment of an animal patient when a bona fide doctor-patient relationship has been established.

"Primary laboratory" means a facility designated by the commission for the testing of test samples.

"Prohibited substance" means any drug, medication, or chemical foreign to the natural horse, whether natural or synthetic, or a metabolite or analog thereof, the use of which is not expressly permitted by the regulations of the commission.

"Race day" means the 24-hour period before ~~post-time~~ post time for the race in which the horse is entered to start.

"Reference laboratory" means a facility designated by the commission for the testing of split samples.

"Ship-in meet" means a limited meet, generally one, two, or three consecutive days of racing, to which the preponderance of horses ship in to race, leave after racing, and do not remain for daily training.

"Substance" means any drug, medication, or chemical foreign to the natural horse or human being, whether natural or synthetic, or a metabolite or analog thereof.

"Test sample" means any sample of blood, urine, saliva, or tissue obtained from a horse or person for the purpose of laboratory testing for the presence of substances.

"Tubing" means the administration to a horse of any substance via a naso-gastric tube.

11VAC10-180-25. Veterinary practices.

A. Veterinarians under authority of commission veterinarian. Veterinarians holding valid veterinarian permits issued by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the commission veterinarian and the stewards. The commission veterinarian shall recommend to the stewards the discipline that may be imposed upon a veterinarian who violates these regulations.

B. Treatment restrictions.

1. Only licensed trainers, licensed owners, or their designees shall be permitted to authorize veterinary medical treatment of horses under their care, custody, and control at locations under the jurisdiction of the commission.

2. Except as otherwise provided in the regulations, no person other than a licensed veterinarian holding a valid permit issued by the commission may administer a prescription or controlled medication, drug, chemical, or other substance to a horse at any location under the jurisdiction of the commission.

3. This section does not apply to the administration of the following substances unless the quantity administered results in detection in post-race samples or interferes with post-race testing:

a. A recognized noninjectable nutritional supplement approved by a commission veterinarian;

b. A noninjectable, nonprescription medication or substance approved by a commission veterinarian; and

c. A noninjectable medication or substance on the direction or by prescription of a licensed veterinarian.

~~2.~~ 4. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any hypodermic syringe or needle or any instrument capable of being used for the injection of any substance.

~~3.~~ 5. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any injectable substance.

~~4.~~ 6. Notwithstanding these regulations, a veterinarian or other permit holder may possess within the enclosure of a horse racing facility a hypodermic syringe and needle for the purpose of administering to himself a substance, provided that the permit holder has documentary evidence that the substance can only be administered by injection and that the substance to be administered by injection has been prescribed for him.

~~5.~~ 7. Unless granted approval by the commission veterinarian, practicing veterinarians shall not have contact with an entered horse on race day. Any unauthorized contact may result in the horse being scratched from the race in which it was scheduled to compete and may result in further disciplinary action by the stewards.

C. Veterinarian treatment reports.

1. Practicing veterinarians must maintain complete records of all treatments, including date, time, and proper identification of each horse. The record shall contain the name of the trainer, the name of the horse, all medications and dosages administered, and all diagnostic and therapeutic procedures performed on the horse.

2. At the request of the commission veterinarian or stewards, practicing veterinarians shall produce within 24 hours the billing ~~and/or~~ and treatment records ~~or~~ and other information for any horse treated by the veterinarian.

3. A medication report that is consistent with analytical results of a positive test and is filed prior to post time for the race in question may be used as a mitigating factor in determining the nature and extent, if any, of a rules violation.

11VAC10-180-35. Prohibited practices.

A. No trainer shall allow a horse to appear in a race, qualifying race, or official timed workout, when the horse contains in its system any prohibited substance, as determined by testing of blood, saliva, or urine, or any other reasonable means.

B. No person shall administer any prohibited substance to a horse on race day. Furosemide is the only substance specifically permitted for use in approved horses on race day.

C. No veterinarian or permit holder shall, without good cause, possess or administer any substance to a horse stabled within the enclosure or at any facility under the jurisdiction of the commission if the substance:

1. ~~That has~~ Has not been approved by the U.S. Food and Drug Administration (FDA) for any use (human or animal), or by the U.S. Department of Agriculture's Center for Veterinary Biologics;
2. ~~That is~~ Is on the U.S. Drug Enforcement Agency's Schedule I or Schedule II of controlled substances as prepared by the Attorney General of the United States pursuant to 21 USC §§ 811 and 812;
3. ~~That its use may~~ May endanger the health and welfare of the horse or endanger the safety of the rider or driver, or ~~its use~~ may adversely affect the integrity of racing; or
4. ~~That does~~ Does not have a recognized laboratory analytical method to detect and confirm its administration.

D. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure of a horse racing facility any prescription substance for animal use unless:

1. The person actually possesses, within the enclosure of the horse racing facility, documentary evidence that a prescription has been issued to him for the substance by a licensed veterinarian;
2. The prescription substance is labeled with a dosage for the horse or horses to be treated with the prescription substance; and
3. The horse or horses named in the prescription are then under the care and supervision of the permit holder and are then stabled within the enclosure of the horse racing facility.

E. The possession or administration of equine growth hormone, venoms, erythropoietin (Epogen), darbepoietin, oxyglobin, Hemopure, or any analogous substance that increases oxygen-carrying capacity of the blood is prohibited. Furthermore, should the analysis of a test sample detect the presence of antibodies of erythropoietin or darbepoietin or any analogous substance in the horse's blood that indicates a history of use of these substances, the horse shall be prohibited from racing and placed on the veterinarian's list until the horse tests negative for the presence of such antibodies.

F. The use of androgenic and anabolic steroids is prohibited in racing horses as stipulated in 11VAC10-180-75.

G. The use of an extracorporeal shockwave therapy device or radial pulse wave therapy device is prohibited on the racetrack premises and at any site that falls under the jurisdiction of the Virginia Racing Commission unless:

1. The therapy device is registered with the commission veterinarian;
2. The therapy device is used by a veterinarian who is a permit holder; and
3. Each use of the therapy device is reported to the commission veterinarian on the treatment report.

Notwithstanding the provisions above, whether on or off the premises, a shockwave therapy device or radial pulse wave therapy device shall not be used on a racehorse fewer than 10 days before the horse is to race or train at racing speed. For the purposes of this calculation, the day of treatment shall be considered day one.

H. Tubing of horses prohibited. The tubing or dosing of any horse for any reason on race day is prohibited, unless administered for medical emergency purposes by a licensed veterinarian in

which case the horse shall be scratched. The practice of administration of any substance, via a tube or other method, into a horse's stomach on race day is considered a violation of this chapter.

1. Using or possessing the ingredients or the paraphernalia associated with forced feeding to a horse of any alkalizing agent with or without a concentrated form of carbohydrate, or administering any substance by tubing or other method on race day shall be considered a violation of this chapter.

2. Under the provisions of this subsection, endoscopic examination shall not be considered a violation of this chapter.

I. Notwithstanding any other provision in this chapter, no substance of any kind may be administered to a horse within four hours, or three hours for a ship-in meet, of the scheduled post time for the race in which the horse is entered. To ensure uniform supervision and conformity to this regulation, the trainer shall have each horse programmed to race stabled in its assigned stall within the enclosure of the horse race facility no fewer than five hours, or four hours for a ship-in meet, prior to post time for the respective race.

J. Intra-articular injections prohibited. Injecting any substance or inserting a needle into a joint space is prohibited within seven days prior to the horse's race.

K. Peri-neural injections prohibited. Injecting a local anesthetic or other chemical agent adjacent to a nerve is prohibited within three days prior to the horse's race.

L. Hyperbaric oxygen chamber prohibited. Subjecting a horse to therapy utilizing a hyperbaric oxygen chamber is prohibited within four days prior to the horse's race.

11VAC10-180-70. Phenylbutazone, flunixin, and other NSAIDs.

A. Generally. By this regulation, the Virginia Racing Commission prohibits the use of multiple NSAIDs in a horse on any given day (stacking) within 96 hours prior to the horse's race. Despite this prohibition of stacking, this regulation specifically permits the use of one of either phenylbutazone, flunixin, or ketoprofen in racehorses in the quantities provided for in this chapter.

B. Quantitative testing. Any horse to which phenylbutazone, flunixin, or ketoprofen has been administered shall be subject to testing at the direction of the commission veterinarian to determine the quantitative levels of phenylbutazone, flunixin, and ketoprofen or the presence of other substances that may be present.

C. Disciplinary actions. The stewards may take disciplinary actions for reports of quantitative testing by the primary testing laboratory for levels of phenylbutazone quantified at levels above 2.0 micrograms per milliliter of serum or plasma, flunixin quantified at levels above 20 ng per milliliter of serum or plasma, or ketoprofen quantified at levels above ~~40~~ 2.0 ng per milliliter of serum or plasma in horses following races, qualifying races, and official timed workouts for the stewards or commission veterinarian, and may use the most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances and the Multiple Violations Penalty System as a guide. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which phenylbutazone, flunixin, or ketoprofen is permitted by the commission.

11VAC10-180-75. Androgenic and anabolic steroids.

A. All androgenic and anabolic steroids are prohibited in racing horses, except as provided ~~below~~ in this section.

B. Residues of the major metabolite of stanozolol, nandrolone, boldenone, and testosterone at concentrations less than the thresholds indicated ~~below~~ in this section are permitted in test samples collected from racing horses.

C. Concentrations of these substances identified in subsection B of this section shall not exceed the following threshold concentrations:

1. Stanozolol – 100 pg/ml in serum or plasma for all horses regardless of gender.
2. Boldenone – ~~250~~ 100 pg/ml in serum or plasma for all horses regardless of gender.
3. Nandrolone.
 - a. 100 pg/ml in serum or plasma in geldings, fillies, and mares.
 - b. Male horses other than geldings will not be tested for nandrolone.
4. Testosterone.
 - a. 100 pg/ml in serum or plasma in geldings, fillies, and mares.
 - b. Male horses other than geldings will not be tested for testosterone.

D. The presence of more than one of the four substances identified in subsection B of this section at concentrations greater than the individual thresholds indicated in subsection C of this section or a combination of any two or more substances recognized as androgenic or anabolic is prohibited.

E. The gender of each horse must be so identified for test samples submitted to the laboratory.

F. Any horse administered an androgenic or anabolic steroid to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug in serum or plasma. After the concentration has fallen below the designated threshold, the horse is eligible to be removed from the list.

G. The stewards may take disciplinary actions for reports of quantitative testing by the primary testing laboratory indicating the presence of one or more androgenic or anabolic steroid at concentrations above the individual thresholds indicated in subsection C of this section and may use the most recent revision of the Association of Racing Commissioners International (RCI) Uniform Classification Guidelines for Foreign Substances and the Multiple Violations Penalty System as a guide.

11VAC10-180-80. Permitted race day substances.

A. Generally. Furosemide shall be the only medication permitted to be administered on race day and only to those horses eligible for furosemide treatment as designated by the bleeder list and furosemide list described in subsection B of this section.

B. Bleeder medications. By this regulation, the Virginia Racing Commission specifically permits the use of bleeder medications in only those horses that:

1. Have been placed on the bleeders list by the stewards;
2. Have raced on furosemide in another jurisdiction on the last previous start in a pari-mutuel race, as indicated by the past performance chart or by verification by the commission veterinarian from that racing jurisdiction, or both; or
3. Have been placed on the furosemide list by the stewards. A horse is eligible for inclusion on the furosemide list if the licensed trainer and a licensed veterinarian determine it is in the horse's best interest to race with furosemide, and the prescribed commission form is presented to the commission veterinarian prior to the close of entries for the horse's race. A

horse placed on the furosemide list without demonstrating an episode of exercise-induced pulmonary hemorrhage is not restricted from racing for the usual recovery period described in 11VAC10-180-85 D. However, any future episode of exercise-induced pulmonary hemorrhage shall be considered a reoccurrence of bleeding for the purpose of determining restrictions from racing, as provided in this chapter.

a. A trainer or owner may discontinue the administration of furosemide to his racehorse only with the permission of the stewards. The request must be submitted in writing on forms prescribed by the commission and prior to entering the horse in a race.

b. A horse removed from the furosemide list may not be placed back on the furosemide list for a period of 60 calendar days unless the horse suffers an external bleeding incident witnessed by the commission veterinarian or his designee. In such case, the horse shall be placed on the bleeders list as though that bleeding incident was a reoccurrence of bleeding and subjected to a minimum 30-day or 90-day restriction for recovery as provided in this chapter.

C. Furosemide.

1. Procedures for usage. The use of furosemide on race day is permitted by the commission only in horses eligible to receive bleeder medications and under the following circumstances:

a. Furosemide shall be administered by a single dose intravenously no less than four hours, or three hours for a ship-in meet, prior to post time within the enclosure of the horse race facility by a veterinarian who shall be specifically designated by the commission to administer furosemide.

b. The furosemide dosage administered shall not exceed 10 ml (500 mg) and shall not be less than 3 3.0 ml (150 mg). At a ship-in meet, the minimum dosage shall be not less than 2.0 ml (100 mg).

c. The veterinarian administering the furosemide shall be an employee of the commission or otherwise observed by an employee of the commission who shall deliver a furosemide treatment report to the commission no later than two hours prior to post time. The furosemide treatment report shall contain the following:

(1) The trainer's name, date, horse's name, and horse's identification number;

(2) The time furosemide was administered to the horse;

(3) The dosage level administered for this race;

(4) The barn and stall number; and

(5) The signature of the ~~practicing~~ veterinarian, who is a permit holder and is specifically designated by the commission to administer furosemide.

2. Furosemide quantification. Furosemide levels must not exceed 100 nanograms per milliliter (ng/ml) of serum or plasma and urine specific gravity measuring 1.010 or lower. If a urine sample is unavailable for specific gravity measurement, serum or plasma concentration may not exceed 100 nanograms per milliliter. Furosemide must be present in the serum or plasma or urine of any horse that has been designated in the program as being treated with furosemide.

D. Disciplinary actions.

1. For the first violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall issue a written reprimand to the trainer and to the practicing veterinarian, if applicable.
2. For the second violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section), the stewards shall fine the trainer, practicing veterinarian, or both an amount not to exceed \$500.
3. For the third violation of the regulation pertaining to furosemide quantification (subdivision C 2 of this section) within a 365-day period, the stewards shall suspend or fine the trainer, practicing veterinarian, or both, not to exceed \$1,000 and 15 days.
4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which furosemide is permitted by the commission, regardless of whether or not the same horse is involved.

E. Adjunct bleeder medications. The Virginia Racing Commission prohibits the use of bleeder adjunct medication on race day.

F. Program designation. The licensee shall be responsible for designating in the program those horses racing on furosemide. The designation shall also include those horses making their first start while racing on furosemide. In the event there is an error, the licensee shall be responsible for making an announcement to be made over the public address system and taking other means to correct the information published in the program.

G. Discontinue use of furosemide. A trainer or owner may discontinue the administration of furosemide to his horse only with the permission of the stewards and prior to entering the horse in a race.

11VAC10-180-85. Bleeders.

A. Examination of bleeders. A horse that is alleged to have bled in Virginia must be physically examined by the commission veterinarian or a practicing veterinarian who is a permit holder in order to confirm the horse's inclusion on the bleeder list. The veterinarian may conclude a horse is a bleeder under the following circumstances:

1. If the examination takes place immediately following the race or exercise and before the horse leaves the racing surface or test barn, a veterinarian may conclude the horse is a bleeder and an endoscopic examination is not required for inclusion on the bleeder list; or
2. If the examination takes place after the horse leaves the racing surface but within 90 minutes following the finish of a race or exercise in which the horse participated, a veterinarian shall require an endoscopic examination for inclusion on the bleeder list.

B. Confirmation of a bleeder. The commission veterinarian or practicing veterinarian who is a permit holder shall decide, based upon the standard of care a reasonable veterinarian should exercise in similar circumstances, whether the horse suffers from exercise-induced pulmonary hemorrhage and should be placed on the bleeder list. The confirmation of a bleeder shall be certified in writing by the commission veterinarian or practicing veterinarian, and the horse shall be placed on the bleeder list. The confirmation of a bleeder shall be filed with the commission within three days of the confirmation. Upon request, a copy of the certification shall be provided to the owner of the horse or his agent.

C. Posting of bleeder list. The bleeder list shall be maintained by the stewards, with the assistance of the commission veterinarian, and shall be made available upon request. No horse shall be removed from the bleeder list without the approval of the stewards.

D. Recovery period. If it is determined that a horse has bled as determined by this chapter, the horse shall be placed on the bleeders list and may not be permitted to race for at least ~~40~~ 14 days. If a horse is determined to have bled within 365 days of the first occurrence, or if the horse bleeds externally on the track or in the test barn while on furosemide, the horse may not race for the following periods of time:

1. 30 days after the first reoccurrence;
2. 90 days after the second reoccurrence; and
3. The horse shall be barred from racing forever at the race meetings licensed by the commission after the third reoccurrence.

For the purpose of counting the number of days a horse is not permitted to race in meetings licensed by the commission, the day the horse bled is the first day of the recovery period, and the horse shall be permitted to race in meetings licensed by the commission when the last day of the recovery period under this chapter expired.

E. Bleeders from other jurisdictions. The commission veterinarian may designate a horse as a bleeder from another jurisdiction based upon information received from that jurisdiction confirming that the horse is a bleeder and that the requirements for inclusion on the bleeder list in Virginia have been satisfied.

11VAC10-180-90. Bicarbonate testing.

A. Generally. By this regulation, the Virginia Racing Commission prohibits the feeding or administration to a horse on race day of any bicarbonate-containing substance or other alkalinizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or carbon dioxide in the horse.

B. Test values. A serum or plasma total carbon dioxide level exceeding 37.0 millimoles per liter constitutes a positive test.

C. Testing procedure. The stewards or commission veterinarian may, at their discretion and at any time, order the collection of test samples from any horses present within the enclosure for determination of serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes. ~~Prerace testing~~ Preracing testing or post-race testing may be done at a time and manner directed by the commission veterinarian. ~~If testing post race, blood samples shall be taken at least one hour after racing.~~ Whether prerace or ~~postrace~~ post-race, the sample shall consist of at least two blood tubes taken from the horse to determine the serum total carbon dioxide concentration. If the chief racing chemist finds that the total carbon dioxide levels in the tubes exceed the standard test values of 37.0 millimoles per liter, then he shall inform the stewards of the positive test results.

D. Split samples prohibited. The procedures for split sample testing shall not apply to bicarbonate testing procedures.

E. Disciplinary actions. The stewards shall, absent mitigating circumstances specifically noted in their findings, impose the following disciplinary action for violation of this section:

1. First offense: \$2,500 fine and 90-day suspension; loss of purse.
2. Second offense: \$5,000 fine and 180-day suspension; loss of purse.
3. Third offense: Revocation of license.

The stewards also may refer the case to the commission for further disciplinary action.

11VAC10-180-110. Laboratory findings and reports.

A. Primary testing laboratory. The commission shall designate a primary testing laboratory for the analysis of test samples collected under the supervision of the commission veterinarian. The commission shall designate a chief racing chemist within the primary testing laboratory who shall have the authority to report his findings to the executive secretary of the commission, the stewards, and the commission veterinarian.

B. Reference laboratories. The commission shall designate one or more laboratories, other than the primary testing laboratory, as reference laboratories. These laboratories will conduct confirmatory analysis of split samples. Any reference laboratory must be willing to accept split samples for confirmatory testing. Any reference laboratory shall send results to both the person requesting the testing and the commission.

C. Chief racing chemist's responsibilities. The chief racing chemist shall be responsible for safeguarding and analyzing the test samples delivered to the primary testing laboratory. It shall be the chief racing chemist's responsibility to maintain proper equipment, adequate staffing, and acceptable procedures to thoroughly and accurately analyze test samples submitted to the primary testing laboratory.

D. Reporting procedures. The chief racing chemist shall submit to the commission veterinarian a written report as to each test sample analyzed, indicating by identification tag number whether the test sample was negative or there was a chemical identification. All confirmed positive identifications shall be submitted to the executive secretary, the stewards, and the commission veterinarian.

E. Chemical identifications. If the chief racing chemist determines that there is present in the test sample a substance or metabolites of a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission, he shall submit a report of chemical identification to the executive secretary of the commission, the stewards, and the commission veterinarian. In a report of chemical identification, the chief racing chemist shall submit evidence acceptable in the scientific community and admissible in court in support of his determination.

F. Review of chemical identifications. Upon receipt of a report of a chemical identification from the chief racing chemist, the stewards shall conduct a review of the chemical identification, which shall include, but not be limited to, the chief racing chemist and the commission veterinarian. During the review, the following procedures shall apply:

1. All references to the report of a chemical identification shall be only by the identification tag number of the sample collected from the horse;
2. The chief racing chemist shall submit his written report of the chemical identification and the evidence supporting his finding;
3. The commission veterinarian shall submit a written statement to the stewards including, but not limited to, the class of the substance, the concentration level detected in the sample, if determined, and its probable effect on a racehorse;
4. The stewards may ask questions at any time and request further documentation as they deem necessary;
5. After receiving the appropriate information on the identified substance, the stewards shall determine whether the chemical identification constitutes a violation of the regulations of the commission and whether it should be deemed a positive test result. In doing so, the stewards shall consider, among other things, the concentration level reported, its likely effect

on the horse, and whether environmental contamination may have contributed to the test result;

6. In the event of a positive test result, the stewards shall notify the trainer and the owner of the horse of the right to send the split sample collected from the horse to one of the reference laboratories, designated by the commission, for confirmatory testing;

7. If the trainer or the owner elects to send the split sample to a reference laboratory, the stewards shall take no disciplinary action against any permit holder until the results from the reference laboratory are received, and the findings shall be a part of the record of any subsequent hearing; and

8. The chief racing chemist's report of a chemical identification, the commission veterinarian's written statement, the results of confirmatory testing and any other documentation submitted to the stewards shall become part of the record of any subsequent proceedings.

G. A horse from which a positive test sample was collected may be placed on the steward's list until the stewards have made a final determination in the matter. The horse shall not be immune from resulting disciplinary action by the stewards or the commission.

H. Frozen samples. Unconsumed portions of all test samples tested by the primary testing laboratory will be maintained in a frozen state until cleared by the chief racing chemist and permission for their disposal is obtained from the Senior Commonwealth Steward, the Equine Medical Director, or the Executive Secretary.

I. Split samples. The commission veterinarian or his designee shall determine a minimum test sample requirement for the primary testing laboratory. If the test sample collected is less than the minimum requirement, then the entire test sample shall be sent to the primary laboratory.

If the sample collected is greater than the minimum sample requirement but less than twice that amount, the portion of the test sample that is greater than the minimum test sample requirement shall be secured as the split sample.

If the test sample collected is greater than twice the minimum test sample requirement, a portion of the sample approximately equal to the test sample shipped to the primary testing laboratory shall be secured as the split sample.

J. Storage of split samples. Split samples shall be ~~stored in secured location inside a locked freezer in accordance with the following procedures:~~ shipped to the testing laboratory with the primary samples. The testing laboratory shall maintain the split samples in a secure and frozen state and when requested by the commission, make the split samples available for further testing, in accordance with standard protocols for maintaining the chain of evidence. Split samples shall be so maintained at the testing laboratory until permission for their release and disposal is obtained from the Senior Commonwealth Steward, the Equine Medical Director, or the Executive Secretary.

~~1. Split samples shall be secured in the test barn in the same manner as the portion of the test sample acquired for shipment to the primary laboratory until such time as test samples are packed and secured for shipment to the primary laboratory.~~

~~2. Upon packing of the test samples for shipment to the primary laboratory, the split samples shall be transferred to the locked freezer by the commission veterinarian or his authorized designee who shall be responsible for securing possession of the keys.~~

~~3. The freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of split samples.~~

~~4. Whenever the freezer used for storage of split samples is opened, it shall be attended by the commission veterinarian or his designee and a representative of the horsemen if the respective horsemen's association has provided a representative. In the case that the split samples from a race must be secured in the freezer and no horsemen's representative is present, the commission veterinarian or his designee shall be in attendance.~~

~~5. A log shall be maintained each time the freezer used for storage of split samples is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was locked.~~

~~6. Any evidence of a malfunction of the freezer used for storage of split samples or evidence that split samples are not in a frozen condition shall be documented in the log and immediately reported to the stewards.~~

K. Shipment of split samples. The trainer or owner of the horse shall have ~~48 hours from receipt of notice~~ having been notified of a positive test result ~~to~~ may request that the split sample be shipped to one of the reference laboratories designated by the commission ~~and the~~. The request must be made in writing and received by the commission not later than three business days after the trainer of the horse receives notification of the positive findings. The split sample shall be shipped to the requested reference laboratory by the testing laboratory. The owner, trainer, or designee shall travel to the storage facility of the testing laboratory to witness the removal, packaging, and shipping procedure unless he has waived this opportunity in writing. Failure of the trainer, owner, or designee to appear at the designated time and place, or otherwise attempting to interfere with the shipment of the split sample or payment of the costs, shall constitute a waiver of all rights to the testing of this split sample. The cost of shipment and additional testing shall be paid in a manner satisfactory to the commission by the permit holder requesting the testing of the split sample. Upon the expiration of this ~~48-hour~~ three-day period, the trainer or owner relinquishes his right to request a split sample.

~~L. Chain of custody form. The commission veterinarian, or his designee, shall be responsible for the completion of a chain of custody verification form that shall provide a place for recording the following information:~~

~~1. Date and time the split sample is removed from the freezer;~~

~~2. The test sample number;~~

~~3. The address of the reference laboratory;~~

~~4. The name and address where the split sample package is to be taken for shipment to the reference laboratory;~~

~~5. Verification of retrieval of the split sample from the freezer;~~

~~6. Verification that each specific step of the split sample packaging procedure is in accordance with the recommended procedure;~~

~~7. Verification of the address of the reference laboratory on the split sample package;~~

~~8. Verification of the condition of the split sample package immediately prior to the transfer of custody to the carrier for shipment to the reference laboratory; and~~

~~9. The date and time custody of the split sample package was transferred to the carrier. The commission veterinarian, or his designee, shall witness, attest and sign the form, and a copy of the form shall be supplied to the trainer or owner.~~

~~In the event that the trainer or owner of the horse, or his designee, is not present, the commission veterinarian may not remove the split sample from the freezer or ship the split sample to a reference laboratory unless the trainer or owner has declined in writing his option to witness the removal, packaging and shipping procedure.~~

~~M. Packaging the split sample. The following procedures shall apply to the packaging of the split sample:~~

- ~~1. The split sample shall be removed from the freezer by the commission veterinarian or his designee; the trainer or owner, or his designee, may be present.~~
- ~~2. The trainer or owner, or his designee, may witness the packaging of the split sample by the commission veterinarian or his designee, in accordance with the instructions supplied by the reference laboratory.~~
- ~~3. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.~~
- ~~4. The trainer or owner, or his designee, may accompany the commission veterinarian or his designee while delivering the package containing the split sample to the location where custody is transferred to the delivery carrier for shipment to the reference laboratory.~~
- ~~5. The trainer or owner, or his designee, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.~~
- ~~6. The trainer or owner, or his designee, if witnessing the procedures, shall sign the chain of custody verification form.~~